

1 HONORABLE RONALD B. LEIGHTON
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

10 EARL KENNETH SHRINER,

11 Petitioner,

12 v.

13 JOSEPH LEHMAN,

14 Respondent.

15 Case No. C03-5672 RBL

16 ORDER

17 THIS MATTER comes on before the above-entitled Court upon Petitioner's filing of a Notice of
18 Appeal [Dkt. #24, entered January 30, 2006].

19 Having considered the entirety of the records and file herein, the Court finds and rules as follows:

20 Petitioner has filed a Notice of Appeal of this Court's Order Adopting Report and Recommendation
21 [Dkt. #21] and Judgment [Dkt. #22, entered May 21, 2004], dismissing petitioner's 28 U.S.C. § 2254 petition.
22 In order for this appeal to proceed, this Court must first issue a Certificate of Appealability. See U.S.C.
23 § 2253(c)(1). In addition to the fact that this appeal does not appear to be timely, see Fed. R. App. P. 4, this
24 Court declines to issue a Certificate of Appealability because, for the reasons set forth in the Report and
25 Recommendation, the petitioner has failed to make "a substantial showing of the denial of a constitutional
26 right." 28 U.S.C. § 2253(c)(2).

27 **IT IS SO ORDERED.**

The Clerk shall send uncertified copies of this order to all counsel of record, and to any party appearing pro se.

Dated this 21st day of February, 2006.

Ronald B. Leighton
RONALD B. LEIGHTON
UNITED STATES DISTRICT JUDGE